Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Correa | Analyst: Kristina North | Bill Number: AB 408

Related Bills: None | Telephone: 845-6978 | Introduced Date: 2/12/99

Attorney: Doug Bramhall | Sponsor:

SUBJECT: Senior Care Credit

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would allow a taxpayer to claim a $500 credit for each immediate family member over 65 for whom he or she cares.

EFFECTIVE DATE

This bill would apply to taxable years beginning on or after January 1, 1999.

SPECIFIC FINDINGS

Current federal law provides various personal and dependent exemptions subject to certain income limitations. These exemptions are treated as deductions from adjusted gross income (AGI). The exemption amount is annually indexed for inflation. The exemption amount for the 1998 tax year is $2,700. To claim a dependent exemption, five tests must be met (member of household or relationship, citizenship, joint return, gross income, and support tests).

Current federal and state laws provide for various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions. However, neither state nor federal law currently allows a credit for expenses related to care of an immediate family member over 65.

Current federal and state laws allow a tax deduction for limited types of personal expenses. Some personal expenses, including certain taxes and home mortgage interest, generally are fully deductible. Personal medical and dental expenses are deductible only to the extent they exceed 7.5% of the taxpayers AGI, while other miscellaneous itemized deductions, including unreimbursed employee expenses, job education, and tax preparation fees, must exceed 2% of AGI.

Current state law provides various exemption credits against tax, including a personal exemption and exemptions for dependents, blind persons and individuals 65 or older. Unlike federal law, these exemptions are not deductions from AGI but are credits against taxes. The exemption amount for the personal exemption and exemptions for a blind person or an individual 65 or older is $70 for 1998. The exemption amount for a dependent is $253 for 1998.

Board Position:			Department Director	Date
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Current state law also provides a joint custody head of household credit and care of dependent parent credit. A taxpayer, who does not live with a spouse, may claim a dependent parent credit if he or she maintains a household, whether it is the taxpayer's or not, for his or her mother or father for the taxable year. The credit amount for the 1998 taxable year is the lesser of $281 or 30% of net tax.

This bill would allow an annual $500 credit for each immediate family member for whom a taxpayer cares. **This bill** defines an "immediate family member" as the taxpayer’s spouse, child, parent, stepparent, grandparent, aunt, uncle, or sibling, who is 65 years or older, and resides in the taxpayer's household.

This bill provides this credit would be in lieu of any deduction to which the taxpayer may otherwise be entitled for costs to which this credit applies.

Any allowable credit amount that exceeded tax liability could be carried over until exhausted.

Since this credit does not specify otherwise, the general rules in state law applicable to the carryover and division of credits would apply, and this credit would not reduce regular tax below tentative minimum tax for purposes of alternative minimum tax.

Policy Considerations

Credits generally are designed to encourage a desired behavior. This bill would allow a credit for behavior in which taxpayers may currently be engaged. For example, a sister, aged 65, currently living with a taxpayer would qualify the taxpayer for a credit, even though the sister may in fact be paying the full “household” costs.

Any taxpayer currently claiming the dependent exemption credit or the dependent care credit for an elderly relative also would be allowed this credit. Multiple credits on the same expenses or activities generally are not allowed in tax law.

This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. However, once a repeal date has been added, and the unlimited credit carryover is allowed, the department would be required to retain the credit carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

Department staff identified the following implementation concerns which include:

- Definitions are needed for "costs," "cares for," “household,” and "resides." Further, this bill does not specify how long the taxpayer must "care for" the "immediate family member" or how long an immediate family member would have to reside with the taxpayer to qualify for this credit.

As a result, it is unclear whether part-time or part-year care would qualify for this credit. Additionally, it is unclear that the taxpayer claiming a credit would be required to pay the household costs.

- By providing that the credit “shall not exceed” $500 per family member, the bill appears to contemplate that it is based upon expenses to care for the qualifying individual. However, the bill allows a credit of $500 per immediate family member regardless of any costs paid to care for the family member. The bill should be clarified to be either a specified $500 credit or based upon amounts paid or incurred to care for the family member, up to a maximum of $500.

- Generally, credits are provided for costs paid or incurred by a taxpayer. This credit would be in lieu of any deduction for which the taxpayer would be entitled for "costs" to which this credit applies. However, this credit is not based on any costs paid or incurred by a taxpayer, such as medical expenses. Thus, it is unclear what kind of deduction this credit would be in lieu of.

- In situations where several adult family members live in one household, it is unclear which member would be allowed to claim credit for the elderly family member, or if all the taxpayers in the household would be allowed the credit for the same individual.

- This bill does not limit the credit to taxpayers residing in this state. It is unclear if the author intended that nonresidents caring for an immediate family member would qualify for this credit.

Department staff is available to assist the author's office with the resolution of these and any other concerns identified.

FISCAL IMPACT

Departmental Costs

With the resolution of the implementation concerns, this bill should not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses under the PITL are estimated as follows:

Effective After January 1, 1999 Assumed Enactment After June 30, 1999 (in millions)		
1999/2000	2000/2001	2001/2002
($141)	($138)	($146)

The estimate for the first fiscal year above includes all of the 1999 tax year impact plus 10% of the 2000 tax year impact.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses under the PITL would depend on the number of seniors qualifying care-providers and the amount of tax liability that would be available to apply the credit. "Resident" of the taxpayer's household is not defined, and the credit does not have to reflect actual expenses incurred.

The above estimates are based on the department's personal income tax model projections for dependent exemptions, and adjusted to reflect the provisions of this bill. Allowances have been made for additional seniors who are currently not being claimed as exemptions because of the gross income support test and other tests.

Data derived from the 1993 Federal Statistics of Income (latest available) indicate that of all dependent exemptions claimed, approximately 5.6% are attributed to exemptions for parents and dependents other than children. The number of seniors qualifying taxpayers for the credit under this proposal is projected to be approximately 500,000 for the 1999 tax year. Subsequent year estimates allow for the carryover of unused credits.

BOARD POSITION

Pending.